S.B. Cr. Bail Application No. 5505/2007
(Dharampal Vs. State of Rajasthan)

Date of order : 14.11.2007

HON'BLE MR.H.R.PANWAR,J.

Mr. B.N.Kalla for the petitioner.
Mr. Ashok Upadhyay, P.P.

Heard learned counsel for the petitioner and public prosecutor for the State. Perused the order impugned and challan papers.

The allegation against the present petitioner is that he committed rape on a girl of 13 years of age. The prosecutrix made statement under Section 161 as also under Section 164 Cr.P.C. specifically alleging that it was the present petitioner who committed rape on her.

It is contended by learned counsel for the petitioner that similarly situated co-accused Phoolwanti and Rajendra have been granted bail.

On careful perusal of the challan papers as also the order granting bail to co-accused Phoolwanti and Rajendra, it appears that the counsel for the petitioner therein contended that the allegation of rape is against Dharampal and not against Phoolwanti and in my view rightly so and same has been

recorded in the order itself. Now it does not lie in the mouth of the counsel for the petitioner to state that the petitioner did not commit the rape. Even otherwise, the statement of the prosecutrix clearly indicate that it was the petitioner who committed the rape. In the circumstances, therefore, it is not a fit case to release the petitioner on bail. The bail application filed by the petitioner under Section 439 Cr.P.C. is therefore, dismissed.

(H.R.PANWAR), J.

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